IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION No. 14173 of 2005

Between:

Appikatla Somaiah S/o. Rattaiah
R/o. Nakkavanidari hamlet of Lingareddipalem
Kodur Mandal (Divi Taluk) Krishna District.

..... PETITIONER

AND

1 The Assistant Commissioner Endowments Department
Vijayawada Krishna District.
2 Sri Gokarneswara Swamy Temple Lingareddypalem,

Koduru Mandal, Krishna District
Rep.by its Manager (Executive Officer)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus to declaring the action of the respondents in conducting public auction for the wet lat in R.S.no.601 admeasuring Ac.3.19 cents situated at Lingareddypalem, Kodur Mandal, Krishna district which are in possession of the petitioner vide auction notification dated 18-6-2005 issued by the 2nd respondent herein without deciding the claim of the petitioner as a landless poor is illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and consequently declare that the petitioner is entitled to have leasehold rights against the said land.

Counsel for the Petitioner: MRT.N.M.RANGA RAO

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: N.INDRANI

The Court at the stage of admission made the following:

ORDER:

At admission of this writ petition, it is seen that the petitioner is a lessee of agricultural lands classified as wet belonging to the

2nd respondent-Devasthanam in an extent of Ac.3.19 cents. The lease in favour of the petitioner stood determined by the provisions of Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (hereinafter referred to as "the Act").

In the light of the provisions of Section 82 (2) of the Act, having regard to the fact that the petitioner is cultivating an extent of Ac.3.19 cents of wet land, is not entitled to be considered as a landless poor person and therefore to the benefits under Section 82(2) of the Act. The petitioner has thus no legal defence from eviction of the lands in question. He has filed the writ petition aggrieved by the steps allegedly being taken by the respondents to auction the leasehold rights of the 2nd respondent temple lands for a future term. Such action of the respondents is impeccable in the facts and circumstances of the petitioner's case. The petitioner is, however, entitled to participate in the auction and bid for the leasehold rights for the future term, which would be considered in the competitive environment.

With the above observations, the writ petition is dismissed.

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GODA RAGHURAM,J

Dated: 01.07.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Assistant Commissioner,

Endowments Department,

Vijayawada, Krishna District

2. Two CCs to the Government Pleader

for Endowments, High Court Buildings,

Hyderabad (OUT)

3. Two CD copies

*Form-NIC-OGS/WP{**CHP**}*